

EXHIBIT 1.4

CHRONOLOGY OF SOUTHERN ARIZONA
WATER RIGHTS LITIGATION AND SETTLEMENT EVENTS

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- A. On February 20, 1975, in its own right and on behalf of the Nation and individual Indian allottees of land on the San Xavier Indian Reservation of the Nation, the United States filed suit in the Federal District Court for the District of Arizona, under Case No. CV 75-39 TUC FRZ ("*United States v. Tucson*"). This action sought a declaration of the rights of the United States, the Nation and Indian allottees in and to the use of surface and groundwater of the Upper Santa Cruz River Basin, damages resulting from defendants' use of surface and groundwater from within the Basin in derogation of the rights of the plaintiffs, and injunctive relief to prohibit withdrawal of surface and groundwater by defendants in derogation of the rights of the plaintiffs.
- B. On March 6, 1975, a second action was filed in Federal District Court for the District of Arizona by the Nation and John Lewis and Rosanna Carlyle, individually and on behalf of all other Indian allottees similarly situated, seeking the same relief as the first action, Case No. CV 75-51 TUC FRZ.
- C. On October 16, 1975, the Court ordered the plaintiff in *United States v. Tucson* to amend its complaint to make all users of the surface and groundwater of the Upper Santa Cruz River Basin defendants.
- D. The two actions were consolidated on December 11, 1975 (the "Tucson Case"). The plaintiffs in the consolidated action filed a first amended complaint on August 14, 1980 naming as defendants approximately 1300 individuals and entities who allegedly were surface and groundwater users in the Upper Santa Cruz River Basin. In the first amended complaint, the United States sued in its own right and on behalf of the

Nation and individual Indian allottees of land within the San Xavier Indian Reservation, the Nation sued in its own right and on behalf of its member allottees, and John Lewis and Rosanna Carlyle sued as Indian allottees on the San Xavier Indian Reservation. The first amended complaint omitted the class allegations that had been alleged in the second action.

E. Between 1975 and 1982, the principal parties to the Tucson Case engaged in negotiations to devise a federal legislative settlement of the case. The resulting legislation, the Southern Arizona Water Rights Settlement Act of 1982 (SAWRSA) was approved on October 12, 1982, Public Law 97-293, 96 Stat. 1274, *et seq.*

F. Several of the provisions of SAWRSA did not become effective unless certain actions were taken within a one-year period. These requirements, specified in Section 307(a)(1) of SAWRSA, were timely met within one year of the date of SAWRSA's enactment as follows:

1. The City entered into an agreement with the United States dated October 11, 1983, to make available 28,200 acre feet of reclaimed water to the Secretary ~~of the Interior to be disposed of as the Secretary saw fit and including a provision that~~ permitted the Secretary to provide terms and conditions under which the Secretary would relinquish to the City such quantities of water as were not needed to satisfy the Secretary's obligations under SAWRSA;

2. The City, Asarco, FICO, the State of Arizona and others entered into an agreement with the United States dated October 11, 1983 to fund the Cooperative Fund; contributions that were required to be made to the Cooperative Fund pursuant to Section 313 of SAWRSA were subsequently made; and

3. The Nation entered into an agreement with the United States dated October 11, 1983 in which (a) the Nation agreed to file a stipulation for dismissal with prejudice of the Tucson Case, in compliance with Section 307(a)(1)(C) of SAWRSA, and (b) the Nation executed a waiver and release as required by Section 307(a)(1)(D) of SAWRSA.

G. In accordance with its October 11, 1983 agreement with the United States, on December 2, 1988, the Nation filed a motion to dismiss with prejudice the Tucson Case. On December 21, 1988, the City joined in the motion of the Nation with the objective that the claims of all plaintiffs against the defendants could be dismissed with prejudice. The Nation's motion was granted on February 3, 1989 and amended on July 6, 1989. The Court granted the Nation's motion to vacate its dismissal and restored the Nation as a party on September 17, 1992.

H. The United States filed a separate motion to dismiss on December 14, 1989. On March 19, 1990, allottees John Lewis and Rosanna Carlyle opposed dismissal of the Tucson Case, and filed a motion to certify a class of allottees and to add the remaining *United States v. Tucson* Named Plaintiff Allottees as class representatives. The remaining *United States v. Tucson* Named Plaintiff Allottees were added "as additional plaintiffs and class representatives" by Court Order dated June 7, 1990.

I. The *United States v. Tucson* Named Plaintiff Allottees filed a motion for leave to file a separate amended complaint on November 13, 1991, as later revised on June 8, and a second motion to file a further revised amended complaint on October 9, 1992. On December 7, 1992, the Court denied the October 9, 1992 motion and granted in part and denied in part the November 13, 1991 motion. The Court permitted the *United*

States v. Tucson Named Plaintiff Allottees to amend the pleadings to reassert class allegations and to assert separate *Winters'* reserved water rights.

J. The *United States v. Tucson* Named Plaintiff Allottees objected to dismissal with prejudice of the Tucson Case. Among other objections, the *United States v. Tucson* Named Plaintiff Allottees disagreed with the division of benefits between the Allottees and the Nation under SAWRSA.

K. SAWRSA was amended by the Southern Arizona Water Rights Technical Amendments Act of 1992, Public Law 102-497, 106 Stat. 3255 *et seq.* (October 24, 1992).

L. On January 22, 1993, Felicia Alvarez and additional Allottees (collectively, the *Alvarez v. Tucson* Named Plaintiff Allottees) filed an action in Federal District Court for the District of Arizona, Case No. CV 93-0039 TUC FRZ ("*Alvarez v. Tucson*"), against the City, Asarco and FICO each on his or her own behalf and on behalf of a putative class of Allottee plaintiffs. The *Alvarez v. Tucson* Named Plaintiff Allottees alleged: First Cause of Action - federal common law trespass by the defendants to Indian possessory rights based on (a) pumping activities by all defendants, resulting in (i) depletion of the surface flows of the Santa Cruz River, declining water tables and diminished water availability for irrigation, and (ii) land subsidence; and (b) groundwater contamination, erosion and sedimentation by defendant Asarco; Second Cause of Action - federal common law equitable restitution and accounting from the defendants; Third Cause of Action - federal statutory §1983 violation by defendant City of Tucson under color of Arizona State law by depriving the Allottees of federally-protected rights, privileges and immunities. The Allottee plaintiffs alleged a Fourth Cause of Action -

diversity nuisance violation by defendant Asarco by causing groundwater contamination, erosion and sedimentation of Allottees' lands. This Settlement Agreement includes the First through Third causes of action (the "Alvarez Case") which are consolidated with the Tucson case and the Fourth Cause of Action. Additionally, the Allottee plaintiffs alleged a Fifth Cause of Action for breaches by defendant Asarco of its mining and business site leases of allotted land. The Fifth Cause of Action is not involved in this settlement.

M. On April 20, 1993, Gerald D. Adams and a number of other allottees (the *Adams v. United States Plaintiff Allottees*) filed a lawsuit in Federal District Court for the District of Arizona, Case No. CIV 93-240-TUC (the "Adams Case") against the United States. The *Adams v. United States Plaintiff Allottees* claimed that: (1) the United States had (a) breached its trust responsibilities to the allottees and (b) violated the Administrative Procedures Act; (2) the *Adams v. U.S. Plaintiff Allottees* were entitled to a special adjudication and administration or statutory right to a just and equal distribution of the San Xavier Indian Reservation water resources; and (3) the United States had violated its statutory duty to protect the riparian allottees from wrongful appropriations or grants of appropriative water rights by other landowners.

N. On December 21, 1998, the parties filed a Joint Motion to Consolidate the Adams Case and Counts one through three of the Alvarez Case with the Tucson Case for administrative purposes. The Court granted the motion on September 30, 1999. The consolidated litigation of the Tucson Case, the Alvarez Case and the Adams Case is referred to herein as the "Consolidated Litigation."

O. On December 21, 1998, the parties filed a Joint Stipulation to Certification of the *United States v. Tucson Plaintiff Class* as a Rule 23(b)(3) Class and filed a Joint

Motion to Certify the *Alvarez v. Tucson* Plaintiff Class as a Rule 23(b)(3) Class. Putative members of the "Plaintiff Class" consist of (a) Allottees and (b) Fee Owners of Allotted Lands. Putative class members who do not opt out will constitute the *United States v. Tucson* Plaintiff Class and the *Alvarez v. Tucson* Plaintiff Class. The Court granted the motions on January 18, 2000.

P. On July 6, 2004, the attorney for the United States and the attorney for the Adams plaintiffs stipulated to the dismissal of the Adams case. The Adams Case was dismissed without prejudice on July 9, 2004.

Q. During the past decade, the parties have made a number of efforts to settle this matter through amendments to SAWRSA. The Tohono O'odham Settlement Agreement reflects a settlement that relies on both legislative and contractual components to resolve the disputes among the parties, including dismissal with prejudice of the Consolidated Litigation.